

REMARKS/ARGUMENTS

Applicant has carefully reviewed the Office Action mailed of October 2, 2008, in which claims 13-24 and 31-33 are pending and have been rejected. In this amendment, claim 13 has been amended to further clarify the claim and claims 23 and 32 have been canceled. New dependent claims 34-36 have been added. Support for the amendments may be found, for example, in the Figures. Claims 13-22, 24, 31, and 33-36 remain pending. Favorable consideration of the above amendments and the following remarks is respectfully requested.

Claim Rejections - 35 U.S.C. § 102/103

Claims 13-15, 23-24 and 31-33 have been rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Lefebvre (U.S. Patent No. 5,108,418). Applicant respectfully traverses the rejection.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). (MPEP 2131). “** “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).” (MPEP 2143.03).

On page 2 of the Office Action, the Examiner makes assertions that appear to mischaracterize the art. The Examiner asserts that Lefebvre discloses a filter device with “a bend region in the proximal section forming a pad to abut the vessel wall (Fig. 1).” The Examiner also asserts “that from Fig. 1, the bend regions of legs 3 are longitudinally apart from the attachment regions (regions having attachment means/hooks 6, 7).” The Examiner also provides a copy of Lefebvre’s Fig. 1, and shows the area asserted to be a “bend region forming a pad”. The Examiner’s copy of Fig. 1 is provided herein to further illustrate the points below.

First, the Examiner asserts that Lefebvre discloses “a bend region in the proximal section forming a pad to abut the vessel wall.” Applicant believes that the Examiner has overlooked the amendment of the previous response that added the limitation “including a bend region in the proximal section forming a pad” to each independent claim. Clearly, the bend region indicated by the Examiner in Fig. 1 is not in the proximal section of the elongated filter legs. Applicant

believes that for at least this reason, the independent claims (13 and 24) are both novel and nonobvious over Lefebvre. Lefebvre does not appear to disclose any structure in the proximal section of the filter legs that could be considered to form a pad configured to abut the vessel wall.

Secondly, the Examiner asserts “[n]otice that from Fig. 1, the bend regions of legs 3 are longitudinally apart from the attachment regions (regions having attachment means/hooks 6, 7).” From the Examiner’s marked-up version of Fig. 1 provided below, Applicant believes it can be clearly seen that even if the asserted bend regions were located as the Examiner specifies (which Applicant believes is an incorrect assertion), the bend regions asserted by the Examiner are not spaced longitudinally apart from the attachment regions as claimed in independent claim 24. The bend region asserted by the Examiner appears to be adjacent the attachment region. Therefore, Applicant believes that claim 24 is novel and nonobvious over Lefebvre.

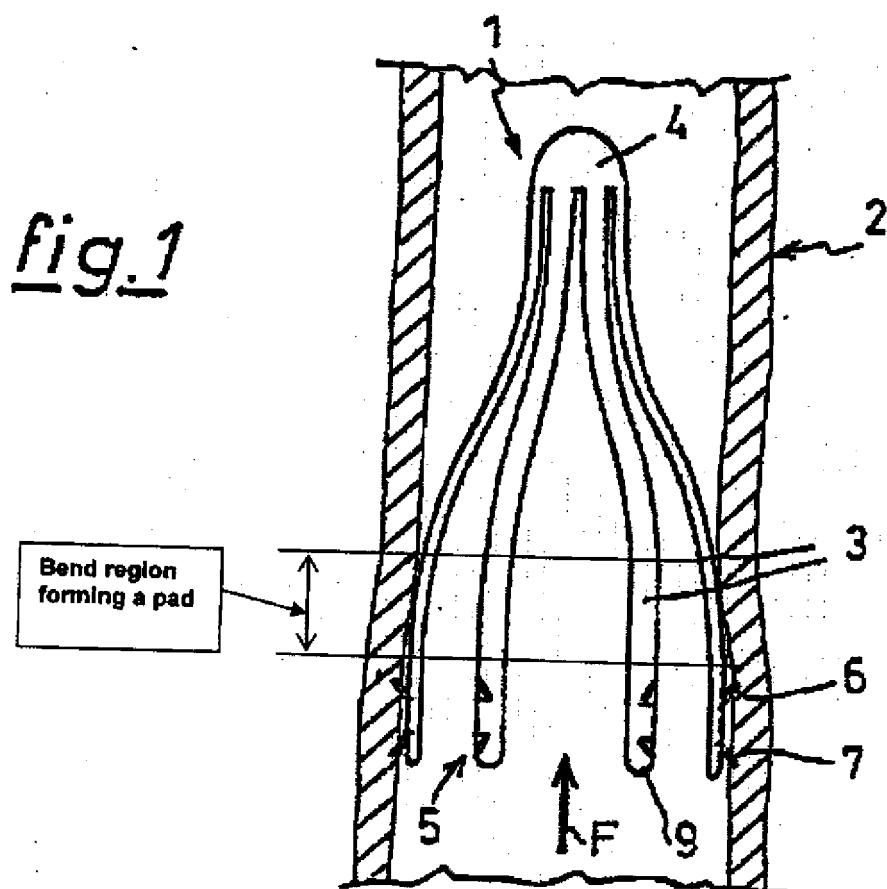


FIG. 1 reproduced from page 3 of current Office Action

For at least the reasons discussed above, Applicant submits that independent claims 13 and 24 are both novel and non-obvious over Lefebvre. Applicant also submits that claims 14-15, 31, and 33 are in condition for allowance because each depends from claim 13 or 24, which Applicant submits are allowable, and contains additional elements. In this amendment, claims 23 and 32 have been canceled, rendering their rejection moot. Applicant respectfully requests that the rejection of claims 13-15, 24, 31, and 33 be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 16-17 and 19-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lefebvre in view of Simon (U.S. Patent No. 4,425,908); claim 18 was rejected under 35 U.S.C. § 103(a) as unpatentable over Lefebvre in view of Simon and further in view of Boylan et al. (U.S. Patent No. 6,602,272); and claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lefebvre as applied to claim 13 above in view of Mazzocchi et al. (U.S. Patent No. 6,949,103). Applicant respectfully traverses the rejections.

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). (MPEP 2143.03).

As discussed above, Applicant believes that Lefebvre does not disclose each element of independent claim 13. None of the cited references (alone or in combination) appear to remedy this shortcoming. Accordingly, for at least the reason that these claims depend from an independent claim which Applicant submits is allowable, and adds additional elements thereto, Applicant submits that these claims are in condition for allowance as well, and requests that the rejections be withdrawn.

New Claims

New dependent claims 34-36 have been added with this amendment. Since these claims depend from independent claims 13 or 24 (which are believed to be allowable) and add additional elements thereto, claims 34-36 are also believed to be allowable over the cited references. Favorable consideration is respectfully requested.

Conclusion

Reexamination and reconsideration are respectfully requested. It is submitted that all pending claims are currently in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612.677.9050.

Respectfully submitted,

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By his Attorney,

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